

Remarks

Claims 3, 6 and 13 as amended and new claims 16-24 are pending in the application. Claims 1-2 and 10-12 is canceled without prejudice. Claims 4, 5, 7-9, 14, and 15 are withdrawn as being members of non-elected inventions pursuant to the restriction requirement of the final rejection. Support for the amendments and new claims are found in the specification and present no new matter. Specifically, support for new claims 16-21 may be found in the specification on page 220, lines 7-12. The compounds structurally depicted in claims 16-21 are specifically set forth in entries (g), (h), and (i) on page 220. For example, entry (g) sets forth the compound of claim 17 since it allows for only one definition for each of substituents named in formula (I).

The instant application has been subjected to a restriction requirement relating to three inventions as follows:

- I. Claims 1, 3, 6, and 10-13 drawn to compounds and composition of formula I;
- II. Claims 4-5 drawn to method of treating conditions modulated by endogenous growth hormone;
- III. Claims 7-9, 14-15, drawn to multiple active ingredient composition and methods of use.

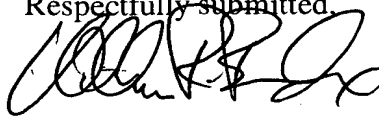
Applicant affirms without traverse the provisional election to prosecute the invention of Group I, i.e. claims 1, 3, 6, and 10-13.

Claims 1, 3, 6, and 10-13 stand rejected under 35 U.S.C. 112, first paragraph as failing to comply with the written description requirement. The Examiner alleges that claim 1 contains new matter as none of the para-fluoro substituted examples allegedly has R¹ being indol-3-ylmethyl and none of the para-fluoro substituted examples allegedly has R⁴ as being CH₃. Without acquiescing to the rejection, the rejection is deemed to be moot regarding now-canceled claims 1 and 10-12.. Regarding the remaining claims and the new claims, applicants have amended the claims to include those compounds specifically described in the specification on page 220, lines 7-12. Therefore, applicants respectfully request reconsideration and withdrawal of the rejection of the pending claims under 35 U.S.C 112, first paragraph.

Serial No. 09/890,163

Applicants respectfully request reconsideration and withdrawal of the pending rejections. A favorable notice to that effect is earnestly solicited.

Respectfully submitted,



William R. Boudreaux
Attorney for Applicants
Registration No. 35,796
Phone: 317-276-0755

Eli Lilly and Company
Patent Division/WRB
P.O. Box 6288
Indianapolis, Indiana 46206-6288

18 May 2004